

REMARKS

The Final Office Action rejected claims 1, 3, 4, 6, 8, 9, 11-12, 14, 16, 17, 19, 20, 22, and 24 under 35 USC 103(a) as being unpatentable over United States Patent Publication 2003/0123466 (hereinafter “Somekh”) in view of United States Patent No. 6,252,849 (hereinafter “Rom”). Final Office Action at 2. Applicant respectfully disagrees.

In response to the Applicant’s argument in its September 4, 2008 Response that Final Office Action’s combination of Somekh and Rom does not teach or suggest (e) generating pause messages at the second gateway based at least in part on the reception of acknowledgement messages by the second gateway or (f) transmitting the pause messages from the second gateway to the first gateway, as required by independent claims 1, 9, and 17, the Final Office Action argued that:

Somekh teaches (e) generating messages (see Somekh paragraph 230 a packet which reports the delay due to network being still in the connection establishment negotiation stage) at the second gateway and reception of acknowledgement messages by the second gateway (see Somekh paragraph 228) when gateway 36B receives packet before the connection establishment negotiation state on network is completed, gateway optionally waits to the end of the negotiation stage before transmitting frame), (f) transmitting the messages from the second gateway to the first gateway (see Somekh paragraph 230 gateway 36B transmitting to gateway 36A a packet which reports the delay due to network being still in the connection establishment negotiation stage). Final Office Action at 17.

Somekh’s message reporting “the delay due to network 34B being still in the connection establishment negotiation state” described in paragraph [0230] is the same as the “suitable packet” reporting a delay to gateway 36A in paragraph [0228]. This message is sent when “gateway 36B [Gateway B] receives packet 312 before the connection establishment negotiation stage on network 34B is completed.” Somekh, paragraph [0228], lines 1-4. This message from Gateway B to Gateway A is not based on messages from Modem B or on messages from

Gateway A. It is based on a failure to timely receive packet 312 from Gateway A. Thus, the situation in paragraph [0228] does not satisfy element (e) of independent claims 1, 9, and 17 because the second gateway (i.e., Gateway B) does not (e) generate pause messages based at least in part on the reception of acknowledgement messages by the second gateway. Since paragraph [0228] does not satisfy element (e) it also does not satisfy element (f) because it does not transmit pause messages from the second gateway (i.e., Gateway B) to the first gateway (i.e., Gateway A).

The Final Office Action further argued that:

Examiner further submits that clearly, figure 9c shows, the receipt of message 316 from modem 32B by gateway 36B triggers message 318 to gateway 36A (paragraph 0227, when gateway 36B receives a frame 316 generated responsive to this frame 314, it transmits packet 318 to gateway 36A). As such, Examiner respectfully disagrees with the Applicant's assertion that Gateway B "does not transmit frames 318 responsive to these frames 316" and Gateway B does not generate a message in response to the frames that it receives from Modem B. Final Office Action at 17-18.

Applicant respectfully disagrees and points out that Applicant's argument that Gateway B "does not transmit frames 318 responsive to these frames 316" is a direct quote from Somekh. See Somekh paragraph [0226], lines 10-12 ("Gateway 36B does not respond to these frames 316 with response frame 320 and does not transmit packets 318 responsive to these frames 316" (emphasis added)). Thus, during the interval described in paragraph [0226], Gateway B does not transmit to Gateway A. Further, Gateway B does not teach that it generates a message to Modem B in response to the frames 316 that it receives from Modem B. The transmissions between Gateway B and Modem B are merely to keep Modem B from disconnecting. Somekh, paragraph [0226], lines 1-8. Accordingly, the situation in paragraph [0226] does not satisfy elements (e) and (f) of independent claims 1, 9, and 17 because the second gateway (i.e., Gateway B) does not (e) generate pause messages based at least in part on the reception of

acknowledgement messages by the second gateway (i.e., Gateway B); or (f) transmit the pause messages from the second gateway (i.e., Gateway B) to the first gateway (i.e., Gateway A).

Further, the situations Somekh describes in paragraphs [0226] and [0228] are mutually independent and cannot be combined. Paragraph [0226] describes a situation in which more than a predetermined period of time passes after the connection establishment negotiation stage on network 34B during which Gateway B has not received packet 312. Paragraph [0226], lines 1-4. Paragraph [0228] describes a different situation in which Gateway B receives packet 312 from Gateway A before the connection protocol negotiations between Gateway A and Gateway B have been completed. Paragraph [0228], lines 1-4. Even an improper combination of paragraphs [0226] and [0228], which describe situations that occur under conditions that cannot simultaneously exist, does not teach elements (e) and (f).

Thus, Somekh does not teach or suggest elements (e) and (f) of independent claims 1, 9, and 17. The Office Action does not argue that Rom provides the missing elements. The Office Action argues that Rom teaches pause messages but the Office Action's combination still relies on Somekh to teach the transmission of messages from Gateway B to Gateway A, and Applicant showed above that Somekh does not teach or suggest that element.

With respect to the Final Office Action's argument that Applicant is attempting to show nonobviousness by attacking references individually, Final Office Action at 19, Applicant respectfully disagrees. Applicant asserts that both cited references, Somekh and Rom, alone or in combination, are missing elements (e) and (f) of independent claims 1, 9, and 17.

Therefore, independent claims 1, 9, and 17 are patentable over the Office Action's combination of Somekh and Rom. Claims 3, 4, 6, 8, 11-12, 14, 16, 19, 20, 22, and 24 depend

from one of claims 1, 9, and 17 and are patentable for at least the same reasons. Applicant respectfully requests that this rejection be withdrawn.

The Final Office Action rejected claims 2, 7, 10, 15, 18, and 23 under 35 USC 103(a) as being unpatentable over Somekh in view of Rom and further in view of United States Patent Publication No. 2004/0196785 (hereinafter “Janakiraman”). Final Office Action at 12. Applicant respectfully disagrees. Claims 2, 7, 10, 15, 18, and 23 depend from one of independent claims 1, 9, and 17. Applicant has shown that the Final Office Action’s combination of Somekh and Rom is missing elements of independent claims 1, 9, and 17. The Final Office Action’s combination of Somekh and Rom is missing the same elements in claims 2, 7, 10, 15, 18, and 23. The Final Office Action does not argue that Janakiraman provides the missing elements. Therefore, the Final Office Action’s combination of Somekh, Rom and Janakiraman would be missing the same elements. Applicant respectfully requests that this rejection be withdrawn.

The Final Office Action rejected claims 5, 13, and 21 under 35 USC 103(a) as being unpatentable over Somekh in view of Rom and further in view of United States Patent Publication No. 2002/0075873 (hereinafter “Lindhorst-ko”). Final Office Action at 14. Applicant respectfully disagrees. Claims 5, 13, and 21 depend from one of independent claims 1, 9, and 17. Applicant has shown that the Final Office Action’s combination of Somekh and Rom is missing elements of independent claims 1, 9, and 17. The Final Office Action’s combination of Somekh and Rom is missing the same elements of claims 5, 13, and 21. The Final Office Action does not argue that Lindhorst-ko provides the missing elements. Therefore, the Final Office Action’s combination of Somekh, Rom and Lindhorst-ko would be missing the same elements. Applicant respectfully requests that this rejection be withdrawn.

SUMMARY

Applicant contends that the claims are in condition for allowance, which action is requested. Applicant does not believe any fees are necessary with the submitting of this response. Should any fees be required, Applicant requests that the fees be debited from deposit account number 50-4370.

Respectfully submitted,

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